Response to Restriction Requirement

The Examiner has required restriction of the invention into the following groups of claims:

Group I: claims 31-45, drawn to a method of treating a cardiovascular disease with a 4-1BB antagonist;

Group II: claims 46-55, drawn to a method for reducing chronic cardiotoxicity with a 4-1BB antagonist;

Group III: claims 56-62, drawn to a method for treating cancer with a 4-1BB antagonist.

This restriction requirement is respectfully traversed. In particular, Applicants traverse the restriction of group II claims from group III claims. According to MPEP § 803, a restriction requirement is proper only when:

(A) The inventions are independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); *and*

(B) There would be a serious burden on the Examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Regarding (B), MPEP § 803 states: "If the search and examination of all of the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

Applicants maintain that it would not represent an undue burden to search and examine groups I-III claims, in particular the subject matter of the group II and III claims. Group II claims are directed to a method of reducing cardiotoxicity caused by a chemotherapeutic agent in a patient who has received a chemotherapeutic agent. Group III claims are directed to a method of treating cancer by administering an anthracycline drug in combination with a 4-1BB antagonist. Therefore, Applicants request that the restriction requirement be reconsidered and withdrawn, in particular with respect to the group II and III claims. However, to fully comply with the restriction requirement, Applicants provisionally elect the group II claims, claims 46 to 55, for further prosecution.

The Examiner has further required several species elections with respect to the group II claims. The first species election is to select from three 4-1BB antagonists recited in claim 50, a soluble 4-1BB protein, a 4-1BB antibody, and a 4-1BBL antibody. Applicants elect a 4-1BBL antibody as the 4-1BB antagonist to which claim 50 shall be restricted if no generic

claim is held to be allowable. The second species election is to select from the cardiotoxic conditions recited in claim 47, arrythmia, myocarditis, pericarditis, myocardial infarction and cardiomyopathy. Applicants elect cardiomyopathy as the condition to which claim 47 shall be restricted if no generic claim is held to be allowable. The third species election required by the Examiner is to select from the chemotherapeutic agents recited in claim 53. Applicants elect amsacrine as the agent to which claim 53 shall be restricted if no generic claim is held to be allowable. The fourth species election is to select from the anthracycline drugs recited in claim 48. Applicants elect doxorubicin as the drug to which claim 48 shall be restricted if no generic claim is held to be allowable.

Regarding an election of species, MPEP 809.02(a) provides that if a generic claim is found to be allowable, Applicants are entitled to consideration of claims to additional species that depend from or require all of the limitations of an allowable generic claim.

Applicants' attorney invites the Examiner to call her at the number given below if it would be helpful in advancing the prosecution of this application.

Respectfully submitted,

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